

BRIGHTON & HOVE CITY COUNCIL
LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

10.00am 6 MARCH 2009

COMMITTEE ROOM 3, BRIGHTON TOWN HALL

MINUTES

Present: Councillor Mrs Cobb (Chairman); Hamilton and Kitcat

Officers: Jane Clarke (Democratic Services Officer), Jean Cranford (Licensing Manager) and Rebecca Sidell (Lawyer)

PART ONE

119. TO APPOINT A CHAIRMAN FOR THE MEETING

119.1 Councillor Cobb was appointed Chairman for the meeting.

120. PROCEDURAL BUSINESS

120a Declarations of Substitutes

120.1 There were none.

120b Declarations of Interests

120.2 There were none.

120c Exclusion of the Press and Public

120.3 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Licensing Panel considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I(1) of the Act).

120.4 **RESOLVED** – that the press and public be not excluded from the meeting.

121. TIN DRUM, SECOND AVENUE, HOVE, BN3 2LJ

- 121.1 The Panel considered a report of the Assistant Director of Public Safety regarding an application for a variation of a Premises Licence under the Licensing Act 2003 for Tin Drum, Second Avenue, Hove.
- 121.2 Mr Redkey attended the hearing to speak in favour of the application and Ms Harrison and Ms Brittan attended the hearing to speak against the application.
- 121.3 The Licensing Manager summarised the report and stated that the application was for a variation of permitted Live Music. Representations had been received from local residents, and although the Environmental Protection Team had originally raised objections, these had now been withdrawn after the applicant had agreed to extra conditions to be placed on the licence to include:
1. All door and windows to be closed during the performance of live music.
 2. Signs should be displayed asking customers to leave the premises quietly.
 3. Regular noise surveys to be conducted by staff whenever live music is in progress.
 4. Speakers should be positions away from the doors and windows.
- 121.4 A Panel Member referred to the original representation from the Environmental Protection Team and asked whether a noise limiting device was to be included in the conditions. The Licensing Manager stated that she had been made aware of only four conditions as stated that had been agreed.
- 121.5 Mrs Harrison began her representation and stated that she lived in what was currently a lovely area of the city but it was a conservation area and double glazing was not allowed in most buildings. She accepted that noise would be audible in dwellings in this area but felt that it was unacceptable to approve a licence that would turn the premises in question into a club.
- Mrs Harrison stated that the premises was very small and she doubted it would have a great enough capacity to make this viable. She noted that her residence backed onto the premises and the disturbance she would experience on a regular basis would be intolerable.
- 121.6 A Panel Member asked whether there were any buildings between Mrs Harrison's dwelling and the premises, and she confirmed that there were but they were lower than her building and so she had a direct view of the premises.
- 121.7 A Panel Member asked if Mrs Harrison's main concern was about the potential for bass beat noise disturbance and she agreed, stating that it was dangerous to set a precedent to allow a premises to play music for 12 hours a day.
- 121.8 A Panel Member asked Mrs Harrison if she could here any music at the moment from the premises and she agreed that she could not.

- 121.9 Mrs Brittan began her representation and stated that the application currently allowed music to be played from 12:00 onwards, every day of the week. She was concerned about the potential for noise disturbance during what is traditionally considered quiet times of the day, such as early weekday afternoons. Mrs Brittan felt that the consultation procedures of the Council to notify residents of this application were inadequate and asserted that many people in the area were unaware of the application, and would have made representations if they had been made aware.
- 121.10 Mr Redkey asked Mrs Harrison and Mrs Brittan whether they felt any noise disturbance could be emanating from other premises nearby and they both agreed that this could be the case.
- 121.11 Mr Redkey began his representation and stated that he had no intention of turning the premises into a club and the events he intended to hold were limited to perhaps one or two a month. He noted that this was a difficult time to be in business given the economic climate and he felt it was necessary to offer his customers more variety to attract more business. Mr Redkey stated that he would not be holding events during the day in the week as this would not be economically viable. He stated that he worked very closely with the Environmental Protection Team at a similar premises in Kemptown, and had not received any complaints at this premises. Mr Redkey stated he was a very responsible business owner and regularly consulted residents in Kemptown to ensure there were no problems caused by his premises, and he would do the same with the Tin Drum, Hove.
- 121.12 A Panel Member asked whether Mr Redkey would be prepared to accept the two extra conditions originally suggested by the Environmental Protection Team and he replied that a noise limiter would be a very expensive purchase for his business when there was no evidence that this application would disturb the residents, and use of the terrace at all times was critical to his business as it was so small.
- 121.13 A Panel Member asked Mr Redkey if he had considered sound proofing his premises and he stated that he did not feel there was a need as it was surrounded by commercial premises and there had not been a noise problem identified as yet.
- 121.14 A Panel Member asked Mr Redkey to clarify the type of music that would be played at the premises and whether he would consider reducing the hours on the licence. Mr Redkey replied that he expected to hold events with solo and jazz artists, or bands playing acoustic guitars and pianos. He stated that there was no intention to play bass or loud music as the premises was predominantly food led and this would be likely to put off his clientele. He confirmed that he would accept a condition to reduce the hours of licensed live music as there was no intention to hold events during the early afternoon or morning.
- 121.15 A Panel Member asked if vertical drinking was allowed on the premises and Mr Redkey stated that there was a condition on his current licence that stated that he had to have 50 covers available at all times.
- 121.16 A Panel Member asked the Panel solicitor where it was possible to place a condition on a licence to restrict the type of music played. The Panel solicitor replied that this would be very hard to enforce and possibly unnecessary. She noted that residents

had a right to request a review of the licence at any time if they were experiencing problems.

- 121.17 A Panel Member asked if Mr Redkey would be happy to restrict the number of times he could hold events in a calendar month, and he agreed that he would be.
- 121.18 The Licensing Manager began her final submission and stated that she was satisfied that the consultation process had been followed correctly. She stated that the way in which this process took place was specified in the Licensing Act 2003 and it was not possible to deviate from this process.
- She stated that an applicant does not have to use the licence they have been granted to the full and any noise problems which may arise with the premise could be addressed separately under different legislation.
- 121.19 Mrs Harrison began her final submission and stated that the application was not appropriate for where the premises was situated and she felt that if the licensed hours could be modified it would be more acceptable to residents.
- 121.20 Mrs Brittan began her final submission and stated that she would like to see a condition on the licence that restricted the number of times an event could be held at the premises to no more than four in one calendar month.
- 121.21 Mr Redkey began his final submission and stated that the variation would not create any problems with the premises in terms of noise disturbance and he would ensure that the residents would see and hear no difference in the operation of the business to what they were used to. He offered to meet regularly with residents to ensure that any issues that did arise were resolved quickly.
- 121.22 The Panel's solicitor stated that any conditions placed on the licence must be clear, enforceable and necessary to promote the four licensing objectives.
- 121.23 **RESOLVED** – that the Panel has decided to grant the application with the following conditions:

1. All door and windows to be closed during the performance of live music.
2. Signs should be displayed asking customers to leave the premises quietly.
3. Regular noise surveys to be conducted by staff whenever live music is in progress.
4. Speakers should be positions away from the doors and windows.

In addition to limit the hours of Live Music to the following times:

Monday – Saturday 12:00 – 15:00 hours and
 18:00 – 23:00 hours

And Sunday 12:00 – 15:00 hours and
 18:00 – 22:00 hours.

The Panel feels these conditions will promote the licensing objectives in respect of the Prevention of Public Nuisance.

The meeting concluded at 11.45am

Signed

Chairman

Dated this

day of